

ASSEMBLY BILL

No. 354

Introduced by Assembly Member Silva

February 10, 2011

An act to amend Section 859 of the Probate Code, relating to estates and trusts.

LEGISLATIVE COUNSEL'S DIGEST

AB 354, as introduced, Silva. Estates and trusts: property: wrongful taking.

Existing law provides that if a court finds that a person has, in bad faith, wrongfully taken, concealed, or disposed of property belonging to the estate of a decedent, conservatee, minor, or trust, the person is liable for twice the value of the property.

This bill would also establish liability for a person who has taken, concealed, or disposed of property, as described above, by use of undue influence in bad faith or through the commission of elder or dependent adult abuse, as defined.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 859 of the Probate Code is amended to
2 read:

3 859. If a court finds that a person has in bad faith wrongfully
4 taken, concealed, or disposed of property belonging to the estate
5 of a decedent, conservatee, minor, or trust, *or has taken, concealed,*
6 *or disposed of the property by the use of undue influence in bad*

1 *faith or through the commission of elder or dependent adult abuse,*
2 *as defined in Chapter 11 (commencing with Section 15600) of Part*
3 *3 of Division 9 of the Welfare and Institutions Code,* the person
4 shall be liable for twice the value of the property recovered by an
5 action under this part. The remedy provided in this section shall
6 be in addition to any other remedies available in law to a trustee,
7 guardian or conservator, or personal representative or other
8 successor in interest of a decedent.